

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

Enertechnix, Inc.,

Plaintiff,

v.

Syn-Fab, Inc.,

Defendant.

Civil Action No. 2:15-cv-744

COMPLAINT FOR PATENT  
INFRINGEMENT

JURY DEMANDED

Enertechnix, Inc. ('Enertechnix') alleges as follows against Defendant Syn-Fab, Inc. ('Syn-Fab').

**PARTIES**

1. Enertechnix is a Washington corporation having a principal place of business in Maple Valley, Washington.

2. Syn-Fab is an Alabama corporation having a principal place of business at 7863 Schillinger Park Road, Mobile, Alabama 36608.

**JURISDICTION AND VENUE**

3. This action arises under the patent laws (35 U.S.C. §§ 271, 281, and 289). Accordingly, original jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331 and 1338(a).

1           4.     Syn-Fab has offered for sale and sold infringing high temperature and industrial  
2 process monitoring systems throughout the United States. Upon information and belief, Syn-Fab  
3 has also offered for sale and sold its infringing high temperature and industrial process  
4 monitoring systems within this judicial district. Syn-Fab is therefore subject to specific  
5 jurisdiction in this district.

6           5.     For purposes of venue, Syn-Fab resides in the Western District of Washington  
7 pursuant to 28 U.S.C. § 1391(c). In addition, upon information and belief Syn-Fab has offered  
8 for sale and sold infringing goods in this district, making venue proper under 28 U.S.C.  
9 § 1391(b).

#### 10                               **ENERTECHNIX AND ITS PATENTS**

11           6.     Since its inception in 1995, Enertechnix has developed and commercialized  
12 systems for measuring gas temperatures in large-scale boilers, as well as mid-infrared imaging  
13 systems for visual monitoring of conditions within high-temperature, particle-laden  
14 environments. Enertechnix is a leading producer of high-performance infrared imaging cameras  
15 and gas measurement tools, for example for use in boiler and furnace environments. The  
16 Enertechnix imaging developments have been innovative, resulting in the grant of multiple U.S.  
17 patents.

18           7.     A first patent granted to Enertechnix is US patent 7,437,025. The '025 patent was  
19 granted in 2008 and is entitled "Sensing System for Detection and Control of Deposition on  
20 Pendant Tubes in Recovery and Power Boilers." The '025 patent was reexamined by the US Patent  
21 and Trademark Office, which confirmed the validity of the patent and issued a reexamination  
22 certificate on July 6, 2010. Enertechnix owns all rights in the '025 patent.

23           8.     A second patent granted to Enertechnix is US patent 7,956,326, issued in in 2011  
24 and entitled "Infrared Imaging Sensor." Enertechnix owns all rights in the '326 patent.  
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1           9.     Enertechnix makes and sells a range of infrared inspection cameras, and has  
2 marked all or substantially all of its commercial products with the numbers of the '025 and '326  
3 patents.

#### 4                                   **INFRINGEMENT BY SYN-FAB**

5           10.    Syn-Fab has offered for sale and sold a variety of high temperature boiler and  
6 furnace cameras, operating in a mid-wave optical band.

7           11.    For example, Syn-Fab offers for sale and sells the SF12 High Temperature  
8 Imaging System, in several versions that include the SF12M, SF12MM, and SF12MP. This  
9 product is described as being a "mid-wave optical system" and including a durable furnace lens.  
10 Syn-Fab marketing materials describe the SF12M as being suitable for use in recovery boilers.  
11 The Syn-Fab SF11 series High Temperature Imaging System is similarly described as having the  
12 same high temperature enclosures and cameras as the SF12 series but with a lens that has an  
13 adjustable field of view. The SF12 portable system is described as having the same infrared  
14 configuration in a portable size and a battery pack. The SF10 BID system is likewise described  
15 as being available in an infrared version for inspecting the inside of boilers and furnaces.

16           12.    Syn-Fab may also offer and sell, or may have previously offered and sold, other  
17 versions of mid-wave inspection systems for use in high temperature environments in addition to  
18 those referred to with particularity above, but under different designations or different product  
19 names. Collectively, the Syn-Fab systems are referred to as the "Syn-Fab Mid-Wave Imaging  
20 Systems."

21           13.    The Syn-Fab Mid-Wave Imaging Systems are within the scope of one or more  
22 claims of the '025 patent. Syn-Fab has directly infringed the '025 patent by making, using, selling,  
23 offering for sale, or importing the Syn-Fab Mid-Wave Imaging Systems, pursuant to 35 U.S.C.  
24 § 271.

25           14.    The Syn-Fab Mid-Wave Imaging Systems are within the scope of one or more  
26 claims of the '326 patent. Syn-Fab has directly infringed the '326 patent by making, using, selling,

1 offering for sale, or importing the Syn-Fab Mid-Wave Imaging Systems, pursuant to 35 U.S.C.  
2 § 271. Upon information and belief, Syn-Fab has induced others to infringe the '326 patent by  
3 providing the Syn-Fab Mid-Wave Imaging Systems and encouraging its customers to use them  
4 in a knowingly infringing manner.

5 15. As a direct result of the infringement by Syn-Fab, Enertechnix has suffered, and  
6 will continue to suffer, damages in an amount to be established at trial.

7 16. Enertechnix provided notice to Syn-Fab of the '025 and '326 patents on or about  
8 July 8, 2014, and therefore Syn-Fab was aware of the patents at least as early as the date of the  
9 notice. At that time, Enertechnix expressly invited Syn-Fab to specify the wavelength of its Mid-  
10 Wave Imaging Systems in the event that they did not operate within the band of 3.5 to 4.1  
11 microns. Enertechnix further asked Syn-Fab to explain any basis upon which it believed its Mid-  
12 Wave Imaging Systems to be outside the scope of the '025 and '326 patents.

13 17. Syn-Fab responded by letter dated July 10, 2014. In that letter, Syn-Fab did not  
14 deny that its Mid-Wave Imaging Systems operated within the band of 3.5 to 4.1 microns, nor did  
15 Syn-Fab offer any explanation for how its Mid-Wave Imaging Systems were not within the  
16 scope of at least one claim of each of the '025 and '326 patents.

17 18. Enertechnix responded further by letter dated July 21, 2014. In that letter,  
18 Enertechnix reiterated its understanding that the Mid-Wave Imaging Systems operate in a band  
19 at about 4 microns, and within the band of 3.5 to 4.1 microns. Enertechnix yet again invited Syn-  
20 Fab to deny that proposition if it was incorrect, and to articulate any basis on which the Mid-  
21 Wave Imaging Systems were believed to be outside the scope of the claims of the '025 and '326  
22 patents. Syn-Fab has never offered any basis on which its Mid-Wave Imaging Systems could be  
23 considered to be outside the scope of at least one claim of each of the '025 and '326 patents.

24 19. Despite the foregoing express notice of the '025 and '326 patents, and the  
25 infringement by Syn-Fab, Syn-Fab has continued to offer and sell its Mid-Wave Imaging  
26 Systems.

1           20. Accordingly, the infringement by Syn-Fab has been willful in view of the  
2 awareness of the '025 and '326 patents and the continued sale despite such awareness of the  
3 patents and the fact of infringement.

4           21. Syn-Fab's infringement will continue in deliberate disregard of Enertechnix's  
5 rights, continuing to cause irreparable harm to Enertechnix, unless enjoined by this Court.

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7                                   **REQUEST FOR RELIEF**

8           Enertechnix requests that the Court grant the following alternative and cumulative relief:

- 9           1. Preliminarily and permanently enjoin Syn-Fab from making, using, offering for  
10 sale, selling, or importing products that infringe the '025 and '326 patents,  
including the Syn-Fab Mid-Wave Imaging Systems;
- 11           2. Award Enertechnix damages sufficient to compensate for the infringement;
- 12           3. Award Enertechnix treble damages pursuant to 35 U.S.C. § 284 and any other  
13 applicable law;
- 14           4. Enter an award of reasonable attorneys' fees pursuant to 35 U.S.C. § 285 and any  
15 other applicable law;
- 16           5. Order Syn-Fab to deliver to Enertechnix its inventories of infringing articles for  
destruction by Enertechnix;
- 17           6. Enter an award of prejudgment interest and costs; and
- 18           7. Other and further relief as the Court may deem just and proper.
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22                                   **JURY DEMAND**

23           Enertechnix demands a jury trial on all issues triable by jury.

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1 DATED this 12th day of May, 2015.

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